

REMARKS:

Claims 40-43 are in the case and presented for consideration.

The examiner is respectfully thanked for his time and consideration during the telephone interview with the undersigned on October 30, 2003. Applicant notes that the discussion of the claims during the interview did not result in agreement that any of the claims were allowable, although some differences with the references were acknowledged. It was agreed that the Maurino '153 and Steels '656 are not logically combined to make the claimed invention obvious due to differences in the function and purpose of the projecting edges in each of the reference mold trays. The examiner is respectfully thanked for his suggestions for amending the claims and discussion of the cited references.

The claims submitted herewith include one of the limitations discussed during the interview, as well as further limitations to the embodiment illustrated in Fig. 4, such that applicant believes claims 40-43 are patentable over the cited prior art.

The specification is herewith amended as well to provide additional description of Fig. 4 in order to support terms used in claims 40-43. Applicant submits that no new matter has been added, as the features described in the new paragraph are all discernable from the drawings as filed.

1. Discussion of the New Claims

Claims 23-39 have been canceled in favor of new claims 40-43. Claims 40-43 are based upon and incorporate the subject matter of claims 23-39. New independent claims 40 and 41 further include the following additional limitation (limitation below taken from claim 40):

... the projecting edge has an outer part extending downwardly

and overlapping only a part of the frame, defining a seat opening at a lower surface of the projecting edge between said edge and the side wall for inserting the frame in the seat.

Canceled claim 25 recited that the edge of the flexible tray is provided with a seat and the stiffening element was provided in the seat. New claims 40 and 41 now further recite that the projecting edge overlaps "only a part" of the stiffening element, as illustrated in Fig. 4 and described at page 4, lines 18-25. In the specification, the flexible projecting edge is described as overlapping at least a part of the stiffening element.

Applicant submits that limiting the edge to overlapping only a part of the stiffening element in the claim is supported and encompassed within the disclosure that the edge may overlap some or all of the stiffening element.

Claims 40 and 41 also include a limitation that the stiffening means is a frame which resists deformation under strain on the tray, for example, from the weight of food held in the tray. The limitation that the stiffening element is a frame was previously presented in claim 27, among others. The resistance to bending, or deformation, under weight of food or liquid contents in the tray is supported at page 3 lines 24-25, and page 4, lines 6-9. A similar limitation is recited in canceled claim 30 presented previously.

The substantially constant thickness of the tray side walls illustrated in Fig. 4 is also included in claims 40 and 41. Applicant acknowledges the prior rejection of the limitation of walls having "substantially consistent thickness", based on lack of supporting disclosure. However, applicant submits that the limitation now in the claims that:

...wherein, the inner face and outer face of the side wall are substantially rectilinear, so that said side wall has a substantially constant thickness...

is in fact supported by the disclosure. Applicant submits that he substantially constant thickness results from the walls being limited to rectilinear. The drawings do show that the tray side walls are substantially straight, and the tray walls do have a substantially constant thickness between the bottom wall and projecting edges. Further, one of ordinary skill in the art would understand that the walls must necessarily be substantially straight, or rectilinear, so that food can be removed by flattening the tray as described in the specification.

And, in claim 41, the shape of the tray illustrated in Fig. 4 is now recited:

...the side wall and bottom wall of the tray define a truncated cone tray, and the flexibility of the tray, together with the dimensions of the stiffening frame and the rectilinearity of the side wall section, permit flattening the flexible tray to take food previously deposited within the mold out of the flexible tray.

The claimed shape of the tray is believed to be clearly shown in the drawings as originally filed. The new paragraph describing the drawing of Fig. 4 is inserted to provide support for the claim language. Applicant submits no new matter has been added as all of these features were disclosed in the original specification as filed.

2. Comparison of Claims 40-49 to Maurino '153

Claims 23-39 were finally rejected pursuant to 35 U.S.C. §102 as anticipated by the disclosure of Maurino '153. Applicant submits that the new claims 40-43 are distinguishable from the cited reference for the following reasons.

First, as noted, each of the new independent claims includes the further limitation on the structure of the projecting edge of the tray that only a part overlaps, or covers, the

stiffening element. In Maurino '153, the annular restraining member 7 is fully embedded within the supporting flange 5. The Maurino '153 patent describes the annular restraining member as:

imbedded in its [the flange] periphery, the restraining member having the property of not being inwardly radially compressible. The restraining member 7 may be comprised of a plastic or metal tube, a solid metal ring or a tightly coiled spring **imbedded in the periphery of the flange**.

Col. 3, lines 27-32.

Maurino '153 makes clear that the restraining member 7 is embedded within the periphery (projection 4) of the flange 5. Except for holding the mold on the pot and preventing **inward radial compression** of the peripheral portion of the flange 5, the projection 4 and restraining member 7 serve no defined purpose as disclosed by Maurion '153. Nowhere in Maurino '153 is there any statement that the flange 5 with projection 4 alone or including the restraining member 7 are provided to help support the shape of the mold FM'. The sidewall 2 is described as being capable of supporting the weight of a molded material without deforming the mold. But, the flange 5 is taught only for holding the mold on the pot.

The projection 4 is entirely solid and entirely surrounds restraining member 7, and no part of the restraining member 7 is exposed. There is no "opening" in the projection as described in the official action disclosed by Maurino '153. As noted above, Maurino '153 describes the restraining member 7 as being "imbedded" [sic]. Maurino '153 does not teach or suggest that the restraining member 7 is held within a seat or an opening of the flange 5. As shown and described, the restraining member 7 is disclosed only as being

fully encased within the flange, such as by molding the flange 5 around the member 7.

Further, the restraining member is not taught as being a stiffening member as equated in the action. The restraining member 7 of Maurino '153 is described only as being resistant to inward radial compression. This is quite distinct from resisting twisting, bending or other movement. Neither is the resistance useful for supporting the form of the mold FM' when carried by the flange 5. Maurino '153 has clearly stated that the sidewall 2 is made sufficiently thick for supporting the form of the mold. While the restraining member 7 might be useful for supporting the mold against collapsing on itself, it is not disclosed for any other purpose, including supporting the flange against twisting or bending.

In new claims 40-43, applicant seeks to distinguish the claimed invention from the mold of Maurino '153 on the basis of the different structure now recited in the claims.

First, as was discussed during the interview, the limitation that the stiffening frame is held within a seat having an open portion is included in all of claims 40-43. Maurino '153 clearly does not anticipate such structure, as the stiffening member is entirely enclosed.

Secondly, shaping the tray with such a seat and inserting the frame in this seat, typically after having manufactured the molded (page 4, line 5), allow the users to insert the frame in the seat. So, the stiffening frame is not necessarily directly incorporated into the tray during the injection of the silicone material, as disclosed in Maurino '153. The tray and the stiffening frame can be sold separate one from the other, as a kit to be assembled by the domestic user. Thus, in the invention, the manufacturing process of the mold can be cheaper.

Applicant believes that the now-claimed structural features are not anticipated or obvious because the problem to be solved is different between the invention and the Maurino '153 patent. In Maurino '153, the mold FM is described as suited for containing

"various types of material (column 2, line 55...) "... but certainly not food (plaster, cement, resin.. see column 2, lines 57-59). In contrast, applicant's invention of a flexible tray is suited for containing food and as explained page 2, lines 5-8, together with page 3, lines 1 and 2, the problem to be solved in the invention is:

- to avoid to deform the tray under the effect of the weight of the food contained therein, if the tray is lifted by its edge, as usual (if the tray is excessively deformed, there is a risk to split part of the food, especially if the food is liquid), (see page 2, lines 17-19 of the application as filed);
- and also to keep the "flexibility features" of the silicone tray (page 2, line 24), for allowing the user to easily take the food out by deforming flat the lateral wall of the tray, such a flat deformation further allowing the mold to be stored in a minimum space (see page 4, lines 6-11).

Such a problem are neither stated nor solved in the Maurino '153 patent.

In Maurino '153, the invention "is concerned with the production of articles...having considerable backdraft or undercut portions and having downwardly extending projections" (col.2 Lines 50-55).

Typically, food products do not have such shapes. Furthermore, the tray of applicant's invention must not have a structure allowing such "particular articles having considerable backdraft or undercut portions and having downwardly extending projections" to be molded and then removed from the mold.

In Maurino '153, column 3, lines 10 to 21 (see also figures 2, 3, 6, 7 and column 5, lines 5-15) state that "the side wall is of varying thickness such as it defines a mold cavity (3, 3') having undercut portions. Adjacent the upper end of the mold is an integrally formed relatively thick and self-supporting radially extending flange 5".

Further, the bottom wall of the mold has a downwardly extending undercut chamber 9 having an annular configuration which defines a lower annular flange 10 on the molded article A (column 3, lines 33-36 and figure 2) or the mold has a cavity 3' which has a substantial undercut portions 4' such that an article A' can be molded having an upper neck portion substantially narrower in diameter than the body portion (column 5, lines 5-11 and figure 6).

A structural configuration of this shape for a silicone tray must absolutely be avoided in the tray for food of the invention. Accordingly, in the mold of the invention, removing the molded product from the tray is obtained by deforming the tray by flattening, as described in the specification. So, if the wall of the tray is provided with undercut portions (such as chamber 9 or cavity 3' defining the portions 4' in Maurino '153), the food product can not be removed from the tray in this manner.

In the claims, each independent claim requires the side walls of the mold are substantially rectilinear and thereby have a substantially constant thickness. This structural feature is recited in claim 40 as "the inner face and outer face of the side wall are substantially rectilinear, so that said side wall has a substantially constant thickness". The same limitation is found in claim 41 as, "along said extension of the side wall between the bottom wall and the outwardly projecting edge, the section of said side wall is substantially rectilinear, so that the side wall has a substantially constant thickness". This feature of the inventive mold tray is shown in Fig. 4 of the application, and now described in the new paragraph added to describe the features illustrated by the drawing in further detail.

The mold of Maurino '153 cannot be modified to make applicant's invention as now claimed in claims 40-43. In Maurino '153, if the walls of the mold were rectilinear, for allowing the mold to be deformed flat, the specific operation of the corresponding molding

apparatus would not operate: when the vacuum is created in the vacuum chamber 1, the air pressure forces the mold walls outwardly away from the article. Figure 3 clearly shows that the undercut chamber 9 opens then, and figure 7 clearly shows that a gap is created around the periphery of the article A' (zones 4' and 21').

If the walls of the Maurino '153 mold were not formed with such undercuts and the mold were deformed flat, instead of being forced outwardly away, the article A, A' could not be removed. Furthermore, it is to be noted that "increasing the usefulness and practicalness of use" of the mold of the invention (column 3, line 2) also means providing a mold at "low cost" which can be versatile.

Therefore, applicant submits that claims 40-43 are novel and non-obvious from Maurino '153 and the other references which are of record.

3. Discussion of Other Objections/Rejections

In the final action, the specification was objected to and claim 39 was rejected pursuant to 35 U.S.C. §112. The grounds for the objection and rejection was the specification did not support the recitation in canceled claim 39 that the bottom wall and projecting edge can be brought together. The objection and rejection are overcome by the claims 40-43 now in the case, as this limitation has been removed from the claims and claim 39 has been canceled. Applicant contends that the specification does support this limitation however, as the background indicates that the tray is an improvement over those which are flattened for storage. One of ordinary skill in the art would clearly understand that the tray of the invention is flattened by bringing the bottom wall and projecting edges toward each other.

And, as noted above, the combination of the Maurino '153 patent teachings with

Steels '656 was agreed, after further consideration, as being improper based on non-analogous teachings of each reference.

Accordingly, the application and claims are believed to be in condition for allowance, and favorable action is respectfully requested. No new matter has been added.

If any issues remain which may be resolved by telephonic communication, the Examiner is respectfully invited to contact the undersigned at the number below, if such will advance the application to allowance.

Favorable action is respectfully requested.

Respectfully submitted,



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